

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ARNOLDO REYNA,

Plaintiff,

v.

No. CV 09-0841 WJ/KBM

LEA COUNTY CORRECTIONAL FACILITY, et al.,

Defendant.

ORDER TO SHOW CAUSE

This matter is before the Court on Plaintiff's Motion For Free Filing Fee (Doc. 6). Plaintiff filed the motion in response to the order entered on September 24, 2009, which required him to make a statutory partial payment toward the filing fee. In the motion Plaintiff concedes that he has funds in his inmate account but states that he "is not able to pay the amount." There is no constitutional violation in requiring an inmate to choose between prison purchases and litigation, *see Shabazz v. Parsons*, 127 F.3d 1246, 1248-49 (10th Cir. 1997), although the Court may not dismiss a complaint "on the grounds of poverty," *Bell v. Whethel*, No. 97-6126, 1997 WL 639319, at *1 (10th Cir. Oct. 14, 1997). The Court will deny Plaintiff's motion.

Because Plaintiff has failed to satisfy statutory conditions, the Court will require him to make the payment or show cause why his complaint should not be dismissed. Failure to comply with this Order may result in dismissal of the complaint without further notice.

IT IS THEREFORE ORDERED that Plaintiff's Motion For Free Filing Fee (Doc. 6) is DENIED; and, within fourteen (14) days from entry of this Order, Plaintiff must make the payment

required by the order of September 24, 2009, or show cause why his complaint should not be dismissed.


UNITED STATES MAGISTRATE JUDGE